



ITG News

Keeping First Nations Informed



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Message From The Director



We recently released our Work Plan for Fiscal Year 2005 and posted a copy to our web site at www.irs.gov/tribes. We have shared the Work Plan each year in order to provide our customers with information on where we will be focusing added attention during the current year. This includes emphasis we will place on certain issues and added efforts we will undertake in education and examinations.

I am often asked how we determine the areas where we will place added focus. This is a complex process that involves considerable judgment, but much of the information required to make those determinations are based on a combination of customer feedback in our annual survey, changing demographic and economic trends within Indian country, and fairness. This latter factor, fairness, is often misunderstood but principally involves our need to ensure that all Tribes are treated equally with other types of governmental entities, as well as with each other.

For the current fiscal year, we will be placing added emphasis on the issues associated with tribal gaming. This includes adherence with Title 31 requirements (anti-money laundering statutes), tip income reporting compliance, and information reporting in the areas of gaming payouts to patrons and expenditure of gaming proceeds by the Tribe. Our work will include a combination of enhanced outreach, as well as focused compliance checks and examinations.

The emphasis placed on gaming issues does not mean that we will ignore other issues and needs. We recognize many Tribes do not have gaming, and that those who do have gaming also have numerous other tribal enterprises and tax issues. We will continue to address those issues and needs.

As always, I am available to discuss any concerns you may have that cannot be resolved with my local staff. I can be reached at 202-283-9800.

Christie Jacobs

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Federal Tax Calendar for First Quarter 2005

January 2005

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3 * Make a deposit for 12/25-12/28 Stop advance payments of EITC for any employee not filing a new Form W-5	4	5 * Make a deposit for 12/29-12/31	6	7 * Make a deposit for 1/1-1/4	8
9	10 Employees report December tip income to employers if \$20 or more	11	12 * Make a deposit for 1/5-1/7	13	14 * Make a deposit for 1/8-1/11	15
16	17 Federal Holiday	18 ** Make a deposit for December if under the monthly deposit rule	19	20	21 * Make a deposit for 1/12-1/14	22
23	24 * Make a deposit for 1/15-1/18	25	26 * Make a deposit for 1/19-1/21	27	28 * Make a deposit for 1/22-1/25	29
30	31 Give employees copies of their Forms W-2 for 2004, and give annual information statements (Forms 1099, 1098, 5498, and W-2G) to all recipients of reportable payments					

February 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * Make a deposit for 1/26-1/28	3	4 * Make a deposit for 1/29-2/1	5
6	7	8	9 * Make a deposit for 2/2-2/4	10 Employees report January tip income to employers if \$20 or more	11 * Make a deposit for 2/5-2/8	12
13	14	15 ** Make a deposit for January if under the monthly deposit rule	16 * Make a deposit for 2/9-2/11	17	18 * Make a deposit for 2/12-2/15	19
20	21 Federal Holiday	22	23	24 * Make a deposit for 2/16-2/18	25 * Make a deposit for 2/19-2/22	26
27	28					

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

March 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * Make a deposit for 2/23-2/25	3	4 * Make a deposit for 2/26-3/1	5
6	7	8	9 * Make a deposit for 3/2-3/4	10 Employees report February tip income to employers if \$20 or more	11 * Make a deposit for 3/5-3/8	12
13	14	15 ** Make a deposit for February if under the monthly deposit rule	16 * Make a deposit for 3/9-3/11	17	18 * Make a deposit for 3/12-3/15	19
20	21	22	23 * Make a deposit for 3/16-3/18	24	25 * Make a deposit for 3/19-3/22	26
27	28	29	30 * Make a deposit for 3/23-3/25	31		

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed

Return Filing Dates

January 31st

- > File Form 941 for the 4th quarter of 2004. If all deposits paid on time and in full, file by February 10th.
- > File Form 940 for 2004 if liable for Federal Unemployment Tax (not participating or current with state unemployment tax). If all deposits paid on time and in full, file by February 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during December.
- > File Form 945 for 2004. If all deposits paid on time and in full, file by February 10th.
- > File Form 943 for 2004 (agricultural entities). If all deposits paid on time and in full, file by February 10th.

February 28th

- > File information returns for all payments reported to recipients on Forms 1099, 1098, 5498, and W-2G, using Form 1096 as a transmittal. If filing these forms electronically, file by March 31st.
- > File Form W-3, along with copy A of Forms W-2 you issued for 2004. File by March 31st if filing electronically.
- > File Form 730 and pay the tax on applicable wagers accepted during January.
- > File Form 8027 if you are a large food and beverage establishment. File by March 31st if filing electronically.

March 31st

- > File Form 730 and pay the tax on applicable wagers accepted during February.

IRS Tribal Consultation Policy Update

In April 2003 we embarked upon a journey to develop an IRS Tribal Consultation Policy in conformance with the requirements of Executive Order 13175. We held 12 regional listening meetings, utilized a joint IRS Tribal drafting committee, and recently solicited feedback from tribal leaders on a draft policy that was developed through these efforts.

We are now in the final stages and expect to have a policy published in the Federal Register in the near future. While we recognize that the final policy cannot satisfy everyone's interests, we are confident that the process we employed has maximized the opportunity for input and will provide Tribes the communication mechanisms to be able to raise issues of interest to them at any time.

We wish to thank everyone who participated in the listening meetings, provided suggestions and feedback, and helped to create the draft policy. This effort has truly been an example of the effective exercise of government-to-government relations.

Customer Satisfaction Survey Results

The Office of Indian Tribal Governments recently completed its second annual Customer Satisfaction Survey. We received responses from 195 Tribes, an increase of 43% from the 2003 survey. Our appreciation to everyone who took time to provide us with valuable feedback on our operations. A report on the results of the survey is posted to our Internet site at www.irs.gov/tribes.

In general, overall satisfaction rose from 68% to 70%, while dissatisfaction dropped from 10% to 3%. While these results indicate improvements have been made, the survey also showed several areas where we need to place added efforts.

One of those areas involves the clarity of our forms and publications. We have already started work to improve Publication 4268, our on-line Employment Tax Desk Guide for Tribal Governments. We are also involved in a redesign of Form 941, the Employer's Quarterly Federal Tax Return, in the hope that we can streamline the form and improve its design. Since that form involves all employers and the Social Security Administration, the revision process will be lengthy and a new form may not be implemented for some time.

Another area for improvement is our need to ensure fairness in addressing issues with Tribes, in other words, to take actions that reassure Tribes that we are addressing similar issues with ALL Tribes at approximately the same time. While that has been our objective, we will be redoubling our efforts to ensure equity exists.

Although the Customer Satisfaction Survey is done on an annual basis, we welcome your feedback at any time. Comments and/or suggestions can be submitted to us at tege.ask.itg@irs.gov.

TRIBAL LEADERS

Don't leave Federal dollars on the table

Help working Native families claim the Earned Income Tax Credit (EITC)!

Every year, millions of EITC dollars go unclaimed in Native communities. Families may qualify for refunds from \$390 to \$4,300 in the 2004 tax year, depending on their amount of earned income and number of qualifying children. You can help members of your community claim the EITC refund through their income tax returns.

Launch an EITC Outreach Campaign

Download free resources at www.eitc.info/native to help get the word out to eligible families who are not currently claiming the EITC. You can organize a local coalition to:

- Run public service announcements and articles in local newspapers
- Include an EITC notice in employees' paychecks and W-2 statements
- Distribute flyers through housing and other service providers

Publicize Free Tax Preparation Sites

Help consumers find free tax preparation sites to maximize their refund value. Obtain Volunteer Income Tax Assistance (VITA) locations near your community by calling 1-800-829-1040. Or e-mail the county and state of desired locations to donna.lancaster@irs.gov. Please contact sites directly to confirm operation hours and assistor availability.

Host EITC Workshops

Educate consumers about the EITC by recruiting financial education providers in your community to conduct workshops using a new workbook called *Building Native Communities: A Guide to Claiming the EITC* produced by First Nations Development Institute and the Annie E. Casey Foundation. For free copies, contact First Nations at 540-371-5615 or info@firstnations.org or visit www.firstnations.org



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Casino Technology Advances Must Meet Anti-Money Laundering Statute Requirements

Technological advances continue in the gaming industry – new types of electronic games, improved player tracking systems, automated payout and reporting systems, and improved security and surveillance systems. All of these advances can improve operations. However, it is important to ensure that these advances do not bring risk to the casino operation, specifically that the changes they entail do not result in lapses in adherence to information reporting requirements and the anti-money laundering statutes under Title 31 of the U.S. Code.

One of the advances that is gaining momentum within tribal casinos is the installation of slot machines that issue “paper payouts.” Instead of cash or tokens being generated from the slots, a coded piece of paper denoting the amount of the win is issued by the machine. In some cases, the patron can insert the ticket into a similar machine and credits totaling the amount of the ticket will register enabling the player to continue gaming. The patron may also “cash” the ticket. In the past, a cash payout has normally been handled at the cage. However, we have observed that several casinos are installing machines that hold a considerable amount of cash and that have the capability of cashing out the ticket.

The casino may have control in programming the amount that the machine can pay out, but there is often no ability to record the identification of the person conducting the transaction. As a result, the casino may be at risk of violating requirements of Title 31, the Bank Secrecy Act, if there is no way to keep track of how much money an individual patron may secure from these machines in a gaming day. The transactions that would normally be shown on the Multiple Transaction Log maintained at the cage would not be recorded. If a patron had won multiple slot jackpots in which a Form W-2G was not required then cashed out credits that had accumulated, no aggregation would be done, and it is likely that the requirement to prepare a CTRC could go undetected if the total wins in a gaming day were over \$10,000. Several casinos have addressed this area by ensuring that the machines have a pre-determined limit on the amount that can be independently transacted by the customer. That additional step can help ensure that Title 31 requirements can be met if the limit is properly set. A common limit appears to be \$3000. Any payout in excess of that amount requires the involvement of a floor employee who can then secure the information required for Title 31 purposes.

Casinos have the responsibility of making sure that Title 31 rules and regulations are met. Automated cash-out machines that are not capable of controlling large transactions by an individual may jeopardize the effectiveness of the casino's Title 31 program and may place the casino at risk in the event of an examination. When installing new technology such as this, the casino needs to ensure that the equipment has the capability of fully addressing all of the processes that were performed by cage and floor personnel, and, in this case, has safeguards that ensure anti-money laundering statute requirements are met.

Abusive Schemes

We continue to work with Tribes in identifying and addressing schemes that are surfacing in **Indian** country. If someone approaches you with a deal that seems “too good to be true,” or if you find evidence of abuses of tribal finances by former employees or consultants, please contact us via e-mail at tege.schemes.itg@irs.gov. We want to partner with Tribes to prevent abuses and protect tribal resources and the interests of tribal members.

What an Employer Needs to Know About Forms W-4

Can an employer take out taxes if a Form W-4 was never filed?

Yes, the employer is required to withhold income taxes. [Publication 15](#), *Circular E, Employer's Tax Guide*, states that if an employee does not give you a completed [Form W-4](#), *Employee's Withholding Allowance Certificate*, withhold tax as if he or she is single with no withholding allowances.

The employer is also required to withhold social security and Medicare taxes.

If an employee claims more than 10 exemptions on their Form W-4, does the employer have to report this to the IRS?

Yes, if you receive a [Form W-4](#) on which the employee claims more than 10 withholding allowances, you must send a copy of that Form W-4 to the IRS service center with your next employment tax return.

Also, if an employee claims exemption from withholding and his or her wages would normally be expected to exceed \$200 or more a week, you must send a copy of that Form W-4 to the service center with your next employment tax return.

If you want to submit the Form W-4 earlier, you can send a copy of the Form W-4 to the IRS with a cover letter, including your name, address, employer identification number, and the number of forms included. The service center will send you further instructions if it determines that you should not honor the Form W-4.

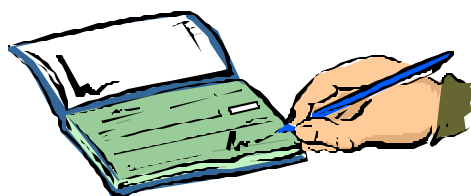
Penalties for the employee:

You should inform your employees of the importance of submitting an accurate Form W-4. An employee may be subject to a \$500 penalty if he or she submits, with no reasonable basis, a Form W-4 that results in less tax being withheld than is required. There is no penalty if your employee doesn't claim enough withholding allowances and has too much withheld.

Employer's obligation:

You have an obligation to file any questionable Forms W-4 with the IRS service center.

For further information on this subject see Publication 15 or our website at: www.irs.gov. If you have any questions, contact an ITG Specialist.



\$\$\$ REMINDER \$\$\$

When writing a check to the Internal Revenue Service, please make the check payable to "**United States Treasury.**"

Treatment of Taxable Per Capita Gaming Distributions to Minors

We have received several inquiries regarding the tax consequences of taxable per capita gaming distributions to tribal members and whether there is a tax imposed on distributions (not placed in a grantor trust) to minors on the net unearned income of minors, commonly referred to as the "kiddie tax."

The Indian Gaming Regulatory Act explicitly provides that per capita distributions of income from Class II and Class III Indian tribal casinos are subject to federal taxation and reportable on Form 1099-MISC (25 U.S.C.S., paragraph 2710(b)(3)(D)). When a payment is made to a tribal member, taxable distributions must be included on an individual's income tax return.

The tax imposed on the net unearned income of a child under the age of 14, sometimes referred to as the "kiddie tax," may apply if, at the close of the tax year either parent is alive and the child has not attained the age of 14.

A minor child has the same return filing obligations as any other individual. Any child who has sufficient income must file a federal tax return notwithstanding his minority status under the local law. Generally a child who can be claimed as a dependent on another person's tax return must file an income tax return if all of his income is earned income totaling more than the basic standard deduction or if the child has any unearned income and his earned and unearned income is more than \$1,600. A child who can be claimed as a dependent on another person's tax return must file an income tax return if he has unearned income of more than \$800. (Please refer to the 1040 instructions for additional information regarding Earned Income Credit).

The child is responsible for filing his own tax return. However, if the child does not file, the parent or guardian of a minor taxpayer must file the return on behalf of the minor. The parent or guardian should sign the return with the child's name and then the parent or guardian's own signature followed by "Parent or Guardian for Minor Child."

The election to claim unearned income of a child on the parents return under Treasury Regulation 6012-1(a) (4) is not available for per capita distributions. The election applies specifically to investment income, such as, dividends, interest income and capital gain distributions.

The per capita distributions are reported on Form 1099-MISC income statement as "other income" and should be included on Line 21 of Form 1040 with a description of the source. The correct description will allow the return to process as quickly as possible. For paper or e-file returns, please enter one of the following descriptions on line 21: Indian Gaming Proceeds, Indian Tribal Distribution, or Native American Distribution.

You may obtain additional information by calling 1-800-829-1040 or from the Indian Tribal Governments' web site at: www.irs.gov/tribes.

Our web site at www.irs.gov/tribes contains an extensive listing of Frequently Asked Questions that may assist you in resolving issues, including employment tax questions. The site also allows for the submission of e-mail inquiries if you cannot locate an answer or cannot reach your assigned ITG Specialist for assistance.

NOTICE TO ALL EMPLOYEES

Previous editions of the newsletter may be found at www.irs.gov/tribes

April topics include:

Voluntary Compliance Initiative

Final Consultation Policy Update

Accountable vs. Non-accountable Reimbursement Plans

To add your name or e-mail address to our mailing list, please contact us via e-mail at Carol.A.Czolowski@irs.gov, or call Carol Czolowski at (801) 620-5048

Have you provided your employer with your correct SSN?

Is the spelling of your last name accurate for payroll purposes?

Have you recently married?

Each year employers send to the Social Security Administration (SSA) a copy of Forms W-2. SSA matches the name and Social Security number (SSN) on each W-2 against its database of all SSNs issued. When a match is found, the earnings information from the W-2 is recorded in the employee's lifelong earnings history.

Your **employer will be penalized** if there is a mismatch between your name and your Social Security number (SSN). Common errors to avoid:

- Incorrect name or SSN
- Misspelled names
- Nicknames or shortened names
- Using titles before or after the name
- Name changes not reported to SSA

Using a new name without updating SSA's records may prevent the posting of earnings to your SSA account. Employees should change their names on Social Security Administration's records by submitting Form SS-5 along with acceptable documentation. Notify both SSA and the payroll office. If the Social Security Administration is not aware of these changes, the employee may not be receiving credit for life time earnings for future benefits of:

- Retirement
- Disability
- Survivor benefits
- Medicare

CHANGE IN MANAGER

After five years of outstanding contribution to the Office of Indian Tribal Governments, Debra Thompson has been promoted to Territory Manager in another operating division.

Debbie's commitment to customer service helped to develop strong relationships with ITG customers in the Pacific Northwest and Alaska, and we are committed to seeing them continue as Steve Bowers takes the reins as Acting Manager.

Steve has been a member of ITG since inception and is the manager for the Southwest area. He is eager to take on this additional responsibility and looks forward to dealing with this exciting new customer base. Steve can be reached at 714-347-9430.

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Telephone, Internet, & Mailing Address

- **Call: Customer Account Services** toll free **877-829-5500**
- **Visit: Indian Tribal Governments** Web site at **www.irs.gov/tribes**
- **Write: Internal Revenue Service**

Indian Tribal Governments SE:T:GE:ITG

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